

## **REMARKS**

Claims 1-24 are pending in the present application.

### Claim rejection under 35 USC §102:

Claims 1-5, and 12-17 have been rejected under 35 U.S.C. 102, as being anticipated by Lubbers et al.(US 6,149,248).

In the advisory action mailed November 6, 2003, the Examiner maintained his position that analyzing a deceleration rate to determine that it is too low constitutes an analysis of the dynamics to detect vehicle instability. Applicant respectfully disagrees.

An applicant can be his own lexicographer as long as a term is not used contrary to accepted meanings in the art. See MPEP 2173.01. Thus, the term "vehicle instability" must be interpreted as defined in the specification of the present invention unless it contradicts accepted meanings. Generally, the meaning of "vehicle instability" defines a state in which a vehicle is not driving stable anymore and, thus, acts unpredictably. The specification of the present invention further limits this normal interpretation and specifically defines what is meant by "vehicle instability." On page 5, paragraph [0011] "vehicle stability" is defined as an unstable condition, such as, a risk of swerving or skidding of the vehicle. Therefore, a situation in which a vehicle is not decelerated fast enough, as recited by the Examiner, does not constitute a "vehicle instability" as defined in the present specification. The Examiner further states that if an actual deceleration rate differs from a requested deceleration rate a critical situation is occurring. Applicant agrees that this statement can be true. However, the limitation "vehicle instability" does not encompass all possible critical situations for a vehicle. Therefore, the conclusion that a critical situation created by too little deceleration causes "vehicle instability" is incorrect. A vehicle which moves straightly forward while decelerating even at a too little deceleration rate is still in a stable condition. The same is true for the reverse case in which a vehicle is not accelerating fast enough to escape a dangerous situation. In this case, also a critical situation can be created. However, in both cases the car is in a stable condition. As defined in the specification, the moment, the vehicle is breaking out by swerving or skidding is the moment the vehicle becomes unstable. Any other interpretation of the term "vehicle instability" is neither


supported by the original meaning of the term nor by the specification of the present invention. Therefore, Applicant respectfully requests allowance of the present set of claims.

### **CONCLUSION**

The application as defined in the pending claims is patentable under 35 U.S.C. §102 and §103 in view of the cited prior art. Therefore, applicants respectfully request withdrawal of the rejection and allowance of all pending claims.

Applicants do not believe that any other fees are due at this time; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct the fees from Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.,*) Order Number 070255.0611.

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